IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

THURSDAY, THE 20TH JULY 2006 / 29TH ASHADHA,1928

Bail Appl..No. 3933 of 2006

CRIME 243/2006 OF GANDHINAGAR POLICE STATION
CRL. MP.1216/2006 of SESSIONS COURT,KOTTAYAM

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PETITIONER/ACCUSED:

KANNAN @ JOSHY, S/O. SHANMUGHAN,
AGED 21 YEARS, KANDENGATTIL, KAIPAMANGALAM,
THRISSUR DISTRICT.

BY ADV. SRI.PHILIP T.VARGHESE
SRI.THOMAS T.VARGHESE

RESPONDENTS:

STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR P.M. HABEEB

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 20/07/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.M.JAMES, J.

B.A.3933/2006

DATED THIS THE 20TH DAY OF JULY, 2006

O R D E R

The petitioner is before this Court, under Section 438 Cr.P.C., as he apprehends arrest, in crime No.243/2006 of Gandhinagar Police Station, for the offence punishable under Sections 380, 454 and 461 IPC. The allegation is that he had committed theft of gold ornaments from the house of one Thresyamma, while he was employed in and around Kottayam District.

2. The facts reveal that the petitioner was arrested by Mathilakom police authorities, on 19.5.2006, when he committed the offence punishable under Sections 394 and 454 IPC. During the interrogation, he revealed about the theft, committing the offence in the house of Thresyamma. Mathilakom police therefore, registered crime No.251/2006 and it was made over to Gandhinagar police station, as the place of occurrence was within that police station limit. On petitioner obtaining bail in crime

No.251/2006, he approached this Court, for a pre-arrest order, in crime No.243/2006 as well.

3. The learned counsel submitted that the petitioner is aged about 21 years. He had not committed the offence registered in crime No.251/2006 and crime NO.243/2006, as stated above. The recovery is effected.

4. The learned Public Prosecutor vehemently opposed the petition, on the ground that as the Court had released the petitioner in crime No.251/2006, the arrest of the petitioner is necessary for further interrogation. Therefore, granting of an order, under Section 438 Cr.P.C., would be detrimental to the prosecution case.

5. After considering the submissions and the materials on record, I direct the petitioner to surrender before the investigating officer of Gandhinagar Police Station, in crime No.243/2006, on 28.7.2006 between 10.30 a.m and 11.00 a.m. The investigating officer shall interrogate the petitioner and thereafter, produce him before the competent Magistrate Court. If the continued

police custody is necessary for interrogation, the investigating officer may move an application for the same, before the Court, in which event, the learned Magistrate shall pass orders, on merit. If no application for the custody is filed, the Magistrate shall release the petitioner on bail, imposing such conditions, which are deemed necessary, provided the application for the same is filed by the petitioner, well in advance, serving copy to the Assistant Public Prosecutor of the Court.

The application is disposed of as above.

J.M.JAMES
JUDGE

mrcs